IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE**

**and**
**THE HON'BLE MR JUSTICE C.V.RAMULU**

**WRIT APPEAL NO : 1269 of 2004**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/07/2004 in WP NO :16097 OF 1994 on the file of the High Court.)

Between:

K.G. Pompana Goud, S/o. Muddena Goud,
R/o. Chintakunta (V), Halaharvi Mandal,
Kurnool District.

**..... APPELLANT**

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary,
Panchayat Raj, Secretariat, Hyderabad.
2 The District Collector & Magistrate, Kurnool.
3 The Executive Engineer, Panchayat Raj, Adoni,
Kurnool District.

**.....RESPONDENTS**

**Counsel for the Appellant:MR.K.SOMA KONDA REDDY**

**Counsel for the Respondents: GP FOR LAND ACQUISITION**

**The Court made the following :**

ORAL ORDER: (per the Hon'ble the Chief Justice)

Writ petitioner-appellant is aggrieved by the orders of the learned single Judge disposing of his writ petition with direction to the petitioner-appellant to file a comprehensive application once again before respondents 2 and 3 within a period of four weeks and that on receipt of the application, same shall be taken into consideration and appropriate orders be passed thereon expeditiously.

As a matter of fact, petitioner-appellant filed writ petition on 7th September, 1994 questioning the action of respondents in not taking out appropriate proceedings to acquire land in Survey No.214 of Chinthakunta Village, Halaharvi Mandalam, Kurnool District on which petitioner alleged that road had been laid and thus he sought direction against respondents for payment of compensation for his property alleged to have been used by respondents in the laying of road.

Rule nisi was issued in the writ petition on 5th October, 1994. Counter affidavit was required to be filed by respondents, which was not filed and on 1st September, 1995 learned single Judge noticed that despite the fact that Rule had been issued and time had been afforded to respondents to file affidavit in reply, the same has not been filed. Petition was directed to be posted for hearing forthwith but came up for actual hearing only on 1st July, 2004 when learned single Judge noticing the facts again relegated the petitioner to square one. We have been taken through the documents on record.

Petitioner's father, through his lawyer Sri Hazi Nazeer Ahmed, Advocate, Adoni, served notice under Section 80 of Code of Civil Procedure upon the State through the Collector and District Magistrate, Kurnool, alleging that Revenue and Panchayat Raj authorities had laid metal road from Chinthakunta to Mallikarjuna palli village and while laying the said road, the land in Survey No.214 had been occupied and used in the road and damage had been caused to the extent

mentioned in the notice. The Collector acted on this notice and on 8th July, 1991, addressed a letter to the Executive Engineer, Panchayat Raj, Adoni when the Revenue Divisional Officer, Adoni was asked to submit a detailed report after personal inspection along with the Executive Engineer, Panchayat Raj. Despite informations and reminders issued to the then Executive Engineer since the month of September, 1991, there was no response from the Executive Engineer, Panchayat Raj. Therefore, Revenue Divisional Officer had himself inspected the land with the Mandal Revenue Officer and reported that the total extent of land in Survey No.214 is Ac.5-10, out of which on some portion of land, road has been formed and that the land is a patta land. Accordingly, the Collector asked the Executive Engineer to send appropriate requisition with requisite funds to the Revenue Divisional Officer, Adoni for acquiring the land so that compensation can be paid to the pattadars. On 8th January, 1992, the Executive Engineer Panchayat Raj, Adoni in his turn addressed a memo to the Deputy Executive Engineer, Panchayat Raj, Alur, drawing his personal attention to the Collector's letter and asking him to submit a detailed report, which was not done.

Thus from the facts narrated above, it is clear that since 1990, the petitioner's predecessor and thereafter the petitioner had been making grievance with the authorities to compensate them for deprivation of their property, which deprivation is contrary to law. Petitioner's predecessor did serve notice under Section 80 CPC, which was considered and found to be genuine by the Collector. Executive Engineer, Panchayat Raj was asked to act thereupon but no action was taken. Petitioner thus had approached this court and filed writ petition on 7th September, 1994 making the State of Andhra Pradesh through the Secretary, Panchayat Raj as first respondent, the District Collector, Kurnool as second respondent and Executive Engineer, Panchayat Raj, Adoni as third respondent. Rule was issued. No action was taken by respondents and then ultimately petitioner was, by the impugned order passed by learned single Judge, again asked to submit a fresh representation.

We are of the view that learned single Judge failed to appreciate the suffering of the poor citizen who had been left high and dry by the respondents in not paying compensation. The facts highlight total inaction on the part of the respondents more particularly when writ petition was filed. The only way in which the respondents can acquire title to the land of the petitioner would be only by taking steps in accordance with law which in our view would be by issuing a formal notification under Section

4(1) of the Land Acquisition Act (for short “the Act”) and then direct the Collector, Land Acquisition to pass appropriate award thereupon and to pay compensation to the petitioner in accordance with law and of course in case petitioner would feel aggrieved, he can have recourse to the provisions of law in getting the amount determined according to law. In such like situation, there is no manner of doubt that enquiry as stipulated under Section 5-A of the Act can be dispensed with, with the consent of the petitioner.

Accordingly we allow the writ petition, direct the respondents to issue appropriate notification under Section 4(1) of the Act within a period of eight weeks from the date of receipt of the writ order from the court. Petitioner-appellant, through his advocate, has consented that petitioner-appellant dispenses with the requisite enquiry under Section 5-A of the Act. Accordingly, declaration under Section 6 of the Act will be issued within a period of four weeks from the date of publication of notification under Section 4(1) of the Act and the Collector thereafter will proceed to make his award in accordance with law within two months from the date of publication of declaration under Section 6 of the Act and compensation will be paid to the petitioner-appellant simultaneously on passing of the award by the Collector. In case petitioner feels aggrieved against the amount of compensation offered, he can avail of his remedies as provided under the Act.

Appeal is accordingly allowed.

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DEVINDER GUPTA, CJ

27-8-2004

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C.V.RAMULU, J

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To

1 The Government of Andhra Pradesh, Rep. by its Secretary,
Panchayat Raj, Secretariat, Hyderabad.
2 The District Collector & Magistrate, Kurnool.
3 The Executive Engineer, Panchayat Raj, Adoni,
Kurnool District.

4 2 CCs to the Govt. Pleader for Land Acquisition, High Court Buildings,

Hyderabad (OUT).